

I. OVERVIEW: List of Employment Related Civil Rights Laws

A. Federal Laws (and representative cases)

1. Title VII (nondiscrimination – race, national origin, religion, sex) 42 USC §§ 2000e et seq.; *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973); *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133 (2000); *Beaver v. DNRC*, 2003 MT 287, ¶¶ 60-65 (2003)
2. Equal Pay Act (gender nondiscrimination in pay/compensation) 29 USC § 206(d); 42 USC §2000e-5(e)(1): *County of Washington v. Gunther*, 452 U.S. 161 (1981) (explaining possibly different analysis of Title VII and Equal Pay claims for discriminatory compensation); *Simpson v. Merchants and Planters Bank*, 441 F.3d 572 (8th Cir. 2006) (explaining standard to prove equal pay violations and element of “willfulness” in order to recover liquidated damages)
3. Age Discrimination in Employment Act (nondiscrimination – age) 29 USC §§ 621 et seq.; *Smith v. City of Jackson*, 544 U.S. 228 (2005) (disparate impact claims authorized by ADEA, but can be overcome by employer proof that decision based on reasonable factor other than age); *O'Connor v. Consolidated Coin Caterers Corp.*, 517 U.S. 308 (1996) (elements of proving age discrimination claim, does not necessarily require proof of replacement by person outside age protected group); *Hazen Paper Co. v. Biggins*, 507 U.S. 604 (1993) (employer’s adverse action based solely on “years of service” does not violate ADEA; defining “willfulness” under ADEA)
4. Americans with Disabilities Act (nondiscrimination – disability) 42 USC §§ 12101 et seq.; *Kolstad v. ADA*, 527 U.S. 526 (1999); *Gambini v. Total Renal Care, Inc.*, 486 F.3d 1087 (9th Cir. 2007)
5. Civil Rights Act, 42 USC § 1981 (nondiscrimination – race/national origin) *Ash v. Tyson Foods, Inc.*, 546 U.S. 454 (2006); *Metoyer v. Chassman*, 504 F.3d 919 (9th Cir. 2007); *Cornell v. Electra Century Credit Union*, 439 F.3d 1018 (9th Cir. 2006)
6. Civil Rights Act, 42 USC § 1983 (protection against violating federal or constitutional rights by persons acting under color of state law) E.g., *Garcetti v. Ceballos*, 547 U.S. 410 (2005) (first amendment protections in the workplace); *Branti v. Finkel*, 445 U.S. 507 (1980) (protection against adverse employment based on political affiliation where not appropriate requirement to effective performance); *Washington v. Davis*, 426 U.S. 229 (1976) (equal protection re race discrimination); *Davis v. Passman*, 442 U.S. 228 (1979) (equal protection re gender discrimination); *Lindley v. Shalmy*, 29 F.3d 1382 (9th Cir. 1994) (denying qualified immunity to individual public officers on claims alleging invidious discrimination)
7. Title VI (federal recipients/nondiscrimination – race) 42 USC §§ 2000d et seq.; *Alexander V. Sandoval*, 532 U.S. 275 (2001) (private right of action for intentional discrimination, but not disparate impact)

8. Title IX (federal recipients/nondiscrimination – gender) *20 USC §§ 1681 et seq.*; *Cannon v. University of Chicago*, 441 U.S. 677 (1979) (private rights of action for intentional discrimination); *Jackson v. Birmingham Bd. Of Ed.*, 544 U.S. 167 (2005) (employee right of action for retaliation)
9. Rehabilitation Act (federal recipients/nondiscrimination – disability) *29 USC §794*; *School Bd. Of Nassau County v. Arline*, 480 U.S. 273 (1987)
10. Family and Medical Leave Act (affirmative duties – medical leave); *29 USC §§ 2601 et seq.*; *Nev. Dept. of Human Resources v. Hibbs*, 538 U.S. 721 (2003) (Employees of state have right to bring action under FMLA even if defendant asserts 11th Amendment immunity)

B. State Workplace Civil Rights Laws

1. Human Rights Act (nondiscrimination – race, creed, religion, color, or national origin or because of age, disability, marital status, sex, or protected activity). See *Rule 24.9.602, ARM* (membership in “protected class” defined)
 - a) *49-2-301* (retaliation)
 - b) *49-2-302* (aiding, abetting, compelling, or coercing violation)
 - c) *49-2-303* (employment discrimination)
 - d) *49-2-308* (discrimination by state/political subdivision, also extends protection against political beliefs discrimination)
 - e) *49-2-310 and 49-2-311* (Mont. Maternity Leave Act; protections from pregnancy discrimination)
2. Governmental Code of Fair Practices (nondiscrimination – race, creed, color, sex, disability, age, marital status, familial status, national origin or political beliefs or ideas)
 - a) *49-3-201(1)* (government agency – affirmative duty – employment decisions to be based on merit and qualification without regard to any protected class characteristic)
 - b) *49-3-202(2)* (government agency – affirmative duty – training, policies and procedures)
 - c) *49-3-209* (retaliation by governmental agency)
3. See: Administrative Rules, “Proof of Discrimination,” *Rules 49.2.601 – 49.2.612, ARM*; *Laudert v. Richland County Sheriff Dpt.*, 2000 MT 18 (2000)